

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1191 OF 2007

Smt Mangal Suryakant Ghatage, Petitioner.

Vs

M/s Inayat Roadlines & Comany.. Respondents.

Mr A.B.Borkar, for the petitioner.

Mr R.S.Ghadge for Mr A.S.Desai, for the respondents.

CORAM : D.B.BHOSALE, J.
DATED : 21st August, 2007

P.C.:

1. Heard learned counsel for the parties.
2. This petition is directed against an order dated 7.12.2006, by which an application filed by the petitioner under Order XXXIX Rule 11 and Rule 2-A of the Code of Civil Procedure seeking action against the respondents for the alleged disobedience of the order and directions of this court passed on 31.1.2005 on Civil Application No.1268 of 2004. I perused the order dated 31.1.2005. In paragraph 4 of the order this court had made the following observation:-

"... It is obvious that if the permit is granted in favour of the respondent no.1 the Trucks will be used for carrying on the transport business. The respondent no.1 will submit accounts of the business in the trial Court on or before 10th of each and every calender month till disposal of the suit."

It appears that the respondents got the permit some time in June, 2006 and since then they have been submitting accounts of the transport business in the trial court as per the direction of this court. Mr. Borkar, learned counsel for the petitioner, submits that even before getting the permit the respondents were carrying on transport business and, therefore, they ought to have furnished accounts for the earlier period also. Mr. Ghadge, learned counsel for the respondents, has denied that the respondents were carrying on the transport business before getting the permit. This is a word against word and, therefore, it is not possible for this court to enter into such controversy in writ jurisdiction under Article 227 of the Constitution. I find no merit in this petition. The writ petition is accordingly dismissed. However, it is open for the petitioner to file an appropriate application before the trial Court seeking appropriate relief based on the allegation that the respondents were carrying on the transport business even prior to grant of the permit. If such an application is filed, same may be considered on merits in accordance with law. With this observation, the writ petition is disposed of.

(D.B.BHOSALE, J.)